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Attorneys for Texas Line 5, LLC

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:

Ryan Nicholas Weiss,

Debtor.

Case No. 21-31701-hdh11

Line 5, LLC d/b/a Texas Line 5, LLC,

Movant,

v.

Ryan Nicholas Weiss,

Debtor-Respondent.

Confirmation Hearing Date:

December 21, 2021

OBJECTION TO DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, LINE 5, LLC d/b/a TEXAS LINE 5, LLC, a creditor with respect to the above-entitled and numbered proceeding, and files this its Objection to Debtor's Chapter 11 Plan, and in support thereof would show the Court the following:

I. FACTUAL BACKGROUND

1. A voluntary Petition commencing the above Bankruptcy case under Chapter 11 of the Bankruptcy Code was filed by Ryan Nicholas Weiss on September 23, 2021.

2. Line 5, LLC d/b/a Texas Line 5, LLC (“Line 5”) is the holder of an unsecured claim in the amount of \$340,051.71.

3. Debtor was the operator and sole owner of a used motor vehicle dealership, Castle Hills Motors, LLC (“Castle Hills”).

4. Line 5 is a finance company that provides financing to consumers, through a network of independent dealers, for the purchase of extended warranty products on automobiles.

5. Castle Hills signed a Dealership Participation Agreement with Line 5 on June 13, 2017 (“Dealer Agreement”), to allow Castle Hills customers the opportunity to finance add on products to their vehicle purchase through Line 5. A true and correct copy of the Dealer Agreement is attached hereto as **Exhibit A**.

6. Debtor Ryan Weiss personally guaranteed all obligations owed by Castle Hills under the Dealer Agreement to Line 5. A true and correct copy of the Personal Guaranty is attached hereto as **Exhibit B**.

7. Pursuant to the Dealer Agreement, upon the cancellation of any product financed by Line 5, Castle Hills would cancel the product with the provider and remit the pro-rata refund of the remaining product balance to Line 5¹.

8. During the course of their dealing with Castle Hills, Line 5 discovered products were being cancelled and refunds from the providers remitted to Castle Hills, but Castle Hills was

¹ Exhibit A, ¶ 4, 12.

failing to remit those refunds back to Line 5, despite an obligation to do so under the Dealer Agreement.

9. After attempting to resolve the issue directly with Castle Hills to no avail and as the amount of refunds owed to Line 5 swelled, Line 5 filed suit against Castle Hills on April 24, 2019, and later amended to add Ryan Weiss personally, in the 42d District Court of Denton County, Cause Number 19-37854-442.

10. Line 5 took a default judgment against Castle Hills and Ryan Weiss on June 3, 2021 (“Judgment”) in the amount of \$225,908.49, plus interest of \$65,418.17 as of September 30, 2020 and continuing to accrue until the date of judgment at 18% annually, plus attorneys’ fees and legal expenses of \$3,520. A true and correct copy of the Judgment is attached hereto as **Exhibit C**.

11. After the filing of the instant bankruptcy case, Debtor testified at his 341 hearing, and put forth in his proposed Chapter 11 Plan, that he sold the “assets” of Castle Hills to a company, Dennis Auto Investments, LLC, owned by his father, Dennis Weiss.

12. According to publicly available records on file with the Secretary of State’s office and the Texas DMV, Dennis Auto Investments, LLC operates a licensed independent motor vehicle dealership under the assumed name of Certified Autos of North Texas, apparently the successor to Castle Hills Motors. A true and correct copy of the DMV’s licensing report for Dennis Auto Investments, LLC is attached hereto as **Exhibit D**.

13. According to the website for Certified Autos of North Texas, they have some 66 vehicles currently in their inventory and have financing available for potential customers².

² See <http://certifiedautosntx.com> (last checked December 14, 2021 at 15:04 CST).

14. According to Debtor's Chapter 11 Plan and disclosures, however, the successor to Castle Hills Motors is losing money and is unlikely to make good on the promissory note made in consideration of the purchase of the Castle Hills assets.

15. Line 5's internal investigation recently uncovered information regarding consumer products purchased through Castle Hills and financed by Line 5 that were not part of the Judgment and thought to still be in good standing and active: those products had been unilaterally cancelled by the dealership as of March of 2021 and pro-rata refunds issued to the dealership.

16. No refunds on these cancelled products have been remitted to Line 5, nor is Line 5 aware of any reason these products were cancelled.

17. The cancelled accounts with Line 5 remain in good standing as consumers continue to pay on their loans with Line 5, but if the affected consumers have any reason to make a claim on the products they will find they have been terminated, with the refunds apparently pocketed by the dealership.

II. LEGAL ARGUMENTS & AUTHORITIES

18. A Chapter 11 plan can only be confirmed if its proponent shows it was proposed in good faith³. For purposes of plan confirmation, a plan is proposed in good faith if it achieves a result consistent with the bankruptcy code considering the context of the circumstances surrounding the plan⁴.

19. Debtor here fails to meet his burden as the proposed plan purports to reorganize a Debtor whose primary asset was sold to an insider under uncertain terms, while creating potential

³ 11 U.S.C. § 1129(a)(3).

⁴ *In re Block Shim Development Co.-Irving*, 939 F.2d 289, 292 (5th Cir. 1991) citing *In re Sun Country Dev., Inc.*, 764 F.2d 406, 408 (5th Cir. 1985).

liabilities for itself and at least one of its creditors in the subsequent (potentially fraudulent) operation of that asset.

20. Further, the Chapter 11 Plan proposes a “liquidation value” for Debtor’s interest in Castle Hills Motors at \$0, based upon the extraordinary debts of Castle Hills and the limited probability of recovering on the promissory note executed in consideration of the “asset sale” to Debtor’s father⁵.

21. Notably, however, there has not been a bankruptcy filing for Castle Hills Motors, and it is unclear how the potential return from the asset sale would be apportioned, if at all, among its creditors.

22. In addition, it appears at least 50% of the expected income of the Debtor comes from “consulting” with the business he sold to his father, which is said to be losing money despite the presently robust used car market⁶.

CONCLUSION

For the reasons stated above, Line 5, LLC d/b/a Texas Line 5, LLC asks the Court deny confirmation of Debtor’s Chapter 11 Plan of reorganization, as Debtor has not shown plan his proposed in good faith, nor does he show that it is in the best interest of his creditors to confirm this plan. The insider dealing, continued failure to abide by existing agreements and consumer commitments, and potentially fraudulent conduct point to a use of the bankruptcy system to skirt liability and float a viable business.

WHEREFORE, LINE 5, LLC d/b/a TEXAS LINE 5, LLC prays the Court deny confirmation of Debtor’s Chapter 11 Plan and for such other and further relief as it is justly entitled.

⁵ See Debtor Ryan Nicholas Weiss’ Plan of Reorganization and Disclosures Contained Herein, Doc. 32, pg. 18, FN 3.

⁶ See *Id.* at 4.

DATED December 14, 2021.

Respectfully submitted,

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By: /s/ Patrick M. Lynch

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ATTORNEYS FOR MOVANT,
LINE 5, LLC d/b/a TEXAS LINE 5, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served upon the parties listed below by electronic filing notification, on December 14, 2021.

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/s/Patrick M. Lynch
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